

Amendments to the Drawings

None

Remarks

Applicant thanks the Examiner for the Written Office Action. Further, Applicant thanks the Examiner for considering Applicants arguments filed 6/21/04. Still further, Applicant thanks the examiner for noting that claims 5, 6 and 11 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With regards the substantive portion of the Written Office Action, of pending claims 1 – 25, claims 1 – 4, 7 – 10, and 12 – 25 were rejected. Claims 5, 6 and 11 were objected to as being dependant upon a rejected base claim.

Applicant has cancelled claim 25. Applicant has amended claim 1 and claim 6. Changes to claim 1 include removal of the word “acute” where added in the previous amendment, change of the symbols “[” and “]” to “(” and “)” respectively, removal of quotation marks from the claim language and changing an instance of the words “one or more” to “more than one.” Applicant has amended claim 6 for consistency with claim 1 and clarity.

Applicant has amended the specification. The word “impossible” has been deleted and the phrase “problematic, without additional structure such as a tapering attachment preferably similar to the illustrated steel strap” is added for clarity. Further, the same paragraph is amended to change “108” to “108” wherein the number is reference to a degree, not an element in the figure. Applicant believes this information is already present in the specification and in particular in figure 12 and is therefore not new matter.

Claim Rejections – 35 U.S.C. § 102

Claims 1 and 15 – 24 were rejected under 35 U.S.C. 102 (b) as being anticipated by Patent No. 4,539,786 to Nelson. Claim 1 has been amended to include the limitation “more than one of the struts each comprising at least two rigid pieces able to move apart so as to produce strut elongations.” Claims 15 – 24 are each dependant upon claim 1 and therefore each also incorporate this amendment. Nelson does not teach this limitation. Therefore Applicant respectfully submits that claims 1 and 15 – 24 are in condition for prompt allowance.

Claim 25 was rejected under 35 U.S.C. 102 (b) as being anticipated by Patent No. 5,704,169 to Richter. Claim 25 is cancelled.

Claim Rejections – 35 U.S.C. § 103

Claims 2 – 4, 7 – 10, and 12 – 14 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Patent No. 4,539,786 to Nelson. The PTO has the burden to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d, 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); MPEP ' 2142. “To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP §2143.03. “If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” MPEP §2142.

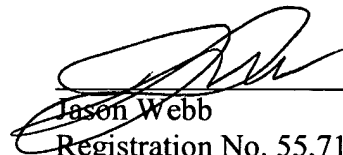
The Office Action only cites Nelson, which does not include all of the limitations of claims 2 – 4, 7 – 10 and 12 – 14. Therefore, the Office Action did not cite references sufficient to include all the claim limitations of any of the rejected claims. The Office

Action did not include a prima facie case of obviousness. Further, claims 2 – 4, 7 – 10 and 12 – 14 are each dependant from claim 1 which has been amended to include a limitation not present in Nelson. Therefore, for this and other reasons not listed, Applicant respectfully submits that claims 2 – 4, 7 – 10 and 12 – 14 are in condition for prompt allowance.

Conclusion

For these reasons, and other reasons not listed herein, it is believed that none of the prior art teaches the claimed invention. Also, it is believed that the claimed invention is non-obvious in light of the prior art. Furthermore, it is believed that the foregoing amendment has adequate support in the specification, and accordingly there should be no new matter. Applicant believes the pending claims have addressed each of the issues pointed out by the Examiner in the Office Action. In light of the foregoing amendment, the claims should be in a condition for allowance. Should the Examiner wish to discuss any of the proposed changes, Applicant again invites the Examiner to do so by telephone conference.

Respectfully Submitted,



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Date: Dec 15, 2004

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